IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

FRIDAY, THE 12TH JANUARY 2007 / 22ND PAUSHA 1928

WP(C).No. 1390 of 2007(M)

PETITIONER:

ANJALI HOTELS PRIVATE LIMITED,CASINO HOTEL, WILLINGDON ISLAND, KOCHI-3, REP. BY ITS MANAGING DIRECTOR, MR.MICHAEL DOMINIC.

BY ADV. SRI.JOSEPH MARKOSE
SRI.MITHUN MARKOS

RESPONDENTS:

1.THE COMMERCIAL TAX OFFICER (WORKS CONTRACT), COMMERCIAL TAXES, KOTTAYAM.

2.THE DEPUTY COMMISSIONER (APPEALS), KOLLAM.

3.THE DEPUTY TAHSILDAR (RR), KOTTAYAM.

BY GOVT.PLEADER SRI.SOJAN JAMES

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.RAMAN, J.

W.P.(C) NO. 1390 OF 2007

Dated this the 12th day of January, 2007

J U D G M E N T

The challenge made in this writ petition is against the interim order passed by the appellate authority in luxury tax matter. The assessment relates to 1996-97, 1998-99 and 1999-2000. The contention of the petitioner is that the order was passed in a mechanical way. His prime contention is that telephonic charges take chunk of the claim now made which in no way can be assessed for the purpose of luxury tax. If this amount is excluded for all these years in question, the balance will be around Rs.2,00,000/- (Rupees two lakhs) and now if 50% of the amount demanded is directed to be paid, practically petitioner will have to pay Rs.2,71,000/- which is arbitrary and excessive.

2. Heard the learned Government pleader.

3. In the facts and circumstances, there will be a direction that in case the petitioner pays an amount of Rs. 2,00,000/- within three weeks towards the disputed tax pending disposal of the appeal, there will be stay for recovery of the balance amount till disposal of the appeal and Exhibit P6 stands modified as above.

However, on default the petitioner will lose the benefit of this order.

Writ petition is disposed of as above.

P.R.RAMAN, JUDGE

Rp